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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

KIM POSEY, individually and on behalf §  
of the Estate of Bryan Posey, deceased, §  
and MICHAEL POSEY, individually §

*Plaintiffs,* §

vs. §

SOUTHWESTERN BELL TELEPHONE, §  
L.P., a.k.a. Southwestern Bell §  
Telephone Company, and §  
DALLAS COUNTY, TEXAS, §

*Defendants.* §

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
**FILED**

AUG 3 2005

CLERK, U.S. DISTRICT COURT  
By \_\_\_\_\_ Deputy NT

CIVIL ACTION NO. 3:04-CV-1685-L

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**PLAINTIFFS' MOTION FOR EXTENSION OF TIME  
TO RESPOND TO DEFENDANT SWBT, LP'S  
MOTION FOR SUMMARY JUDGMENT AND BRIEF IN SUPPORT**

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TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Plaintiffs in the captioned cause and file this, their Motion for Extension of Time to Respond to Defendant SWBT, LP's Motion for Summary Judgment, and ask the court to grant Plaintiffs' motion and for such would respectfully show unto the Court as follows:

I. MOTION, BRIEF AND ARGUMENT

1. This lawsuit arises out of the in-custody death of Bryan Posey who died while in the custody of Dallas County at the Lew Sterrett jail. Plaintiffs claims include Constitutional violations pursuant to 42 USC § 1983 against Dallas County; liability arising from the joint enterprise of providing inmate telephone service exceeding the

scope of the governmental immunities embraced within the Texas Tort Claims Act, as well as a product liability theory as to Defendant Southwestern Bell Telephone.

2. Defendant SWBT, LP filed their Motion for Summary Judgment with the Court on July 22, 2005.

3. Plaintiffs' Response to Defendant's Motion for Summary Judgment is due August 11, 2005.

4. Plaintiff is unable to properly respond to Defendant's Motion for Summary Judgment within the twenty (20) day filing deadline under the local rules (U.S. District Court, Northern District of Texas, Local Rules, L.R. 7.1 (e) for the following reasons:

A. SWBT, LP's Motion for Summary Judgment raises numerous issues that have not been the subject of prior briefing and require extensive research and review of numerous depositions and exhibits.

B. SWBT, LP has, in addition to its Motion for Summary Judgment filed separate Motions to Strike and to Exclude Plaintiffs' Experts for which the Plaintiffs' responses are also due to the Magistrate on August 11, 2005. Plaintiffs' counsel, are therefore involved in responding to three motions filed by SWBT, LP at the same time.

5. Plaintiffs' counsel requests an additional 10 business days to file Plaintiffs' Response to SWBT, LP's Motion for Summary Judgment, to and including August 25, 2005. Plaintiffs' counsel are not requesting additional time to respond to the Motions to Strike and Exclude Experts.

II. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests and prays this Court grant Plaintiffs' Motion for Extension of Time to Respond to Defendant's Motion for Summary Judgment and for such other and further relief, both legal and equitable, to which they may show themselves to be justly entitled.

Respectfully submitted,

THE CARSE LAW FIRM



Tom Carse  
Texas Bar No. 00796310  
Sidney B. Chesnin  
Texas Bar No. 04186600  
6210 Campbell Road, Suite 220  
Dallas, Texas 75248  
Telephone (972) 503-6338  
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ATTORNEY FOR PLAINTIFFS

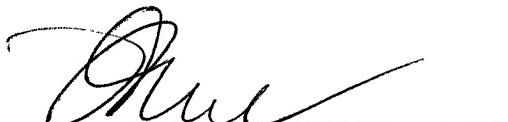
CERTIFICATE OF CONFERENCE

I certify that I conferred with counsel for SWBT, LP and Dallas County on this motion for extension of time. Counsel for Southwestern Bell Telephone, whose Motion for Summary Judgment is the subject of this motion does not oppose this motion. Counsel for Dallas County is opposed to this motion, even though Dallas County is not a party to the Motion in question.

  
Tom Carse

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing instrument and each attachment thereto was served upon the attorney of record for the party said instrument is directed, and a copy of the foregoing was served upon attorneys for all other parties to the above cause (and upon each party who is not represented by an attorney of record in said cause) in accordance with Rule 5, Federal Rules of Civil Procedure, on this the 3rd day of August, 2005.

  
Tom Carse

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DALLAS DIVISION

KIM POSEY, individually and on behalf §  
of the Estate of Bryan Posey, deceased, §  
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DALLAS COUNTY, TEXAS, §

*Defendants.*

§ CIVIL ACTION NO. 3:04-CV-1685-L

**AFFIDAVIT OF TOM CARSE**

STATE OF TEXAS §  
§  
COUNTY OF DALLAS §

BEFORE ME ON THIS DATE, the undersigned authority, personally appeared Tom Carse, a person who is personally known to me and after being duly sworn by me upon his oath he stated:

1. I am over the age of eighteen (18) years and am a licensed attorney in the State of Texas and my license to practice law is in good standing. I have never been convicted of a crime. Each fact recited in this affidavit is within my personal knowledge and each fact is true and correct.
2. I am counsel of record for the Plaintiffs in the above styled matter.
3. Attached hereto is Plaintiffs' Motion for Extension of Time to Respond to Defendant SWBT, LP's Motion for Summary Judgment and brief in

support. Each statement of fact contained in that motion is true and correct.

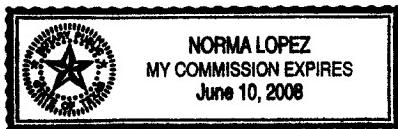
"Further Affiant sayeth not."

SIGNED this 3<sup>rd</sup> day of August, 2005.



Tom Carse

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, on the 3<sup>rd</sup> day of August, 2005.



Notary Public in and for  
The State of Texas

My Commission Expires: 06-10-08